THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 24785 of 2007

Dated: 29.11.2007

Between:

Kolagani Mutyam Reddy

... Petitioner

AND

Govt., of Andhra Pradesh,
Rep., by its Secretary to Govt.,
Revenue Department,
Secretariat Buildings, Hyderabad & others.

... Respondents

Counsel for the petitioner : Sri E. Madam Mohan Rao

Counsel for the respondents : Assistant Government Pleader for Land Acquisition

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WRIT PETITION No. 24785 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to declare notification dated 13.10.2007 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'), as illegal.

Heard Sri E. Madan Mohan Rao, learned counsel for the petitioner and the learned Assistant Government Pleader for Land Acquisition.

The only contention advanced by the learned counsel for the petitioner is that though enquiry for hearing objections under Section 5A of the Act was fixed at 10-00 a.m. on 01.11.2007 at Nookapalli Village, respondent No.3 has not visited the said place at the time indicated and that therefore the petitioner is denied the opportunity of personal hearing.

In para 8 of the counter-affidavit filed by Sri S.Venkateswarlu, Revenue Divisional Officer and Land Acquisition Officer, Jagityal Division, Karimnagar District, it is stated as under:

> "In reply to the averments made in para 9 of the petitioner's affidavit it is submitted that on 15.10.2007, this office has issued 5A notice and a date was fixed to hold an enquiry into the objections received. On the date of 5A enquiry i.e., on 01.11.2007, I accompanied with the District Collector in the morning hours, as the Hon'ble Minister for Endowments has opened the Thasildar's Office Building at Dharmapuri. After completion of opening function, I rushed to the enquiry spot in the

> afternoon. By that time the petitioner had left the place of enquiry. In the morning hours, I instructed the Tahsildar, Mallial to receive objections petitions that may be filed by the land owners including the petitioner herein. Accordingly, the Tahsildar, Mallial has received the objection petitions from the respective land owners and the petitioner herein. There are different types of objections filed by the land owners and the same have to be examined individually and a decision to be taken on each and every objection petition. The enquiry in the matter has not been completed on that day i.e., on 01.11.2007 and another date will be fixed to enquire into the objection petitions wherever required. The petitioner is at liberty to demonstrate his objections during the 5A enquiry."

From the above-reproduced para, it is clear that due to his own personal reasons, respondent Nos.3 was not present at the time and place indicated in the notice issued to the petitioner. It is not the case of respondent No.3 that he instructed the Tahsildar concerned to request the petitioner to come back in the afternoon for giving him opportunity of personal hearing. On the other hand, he candidly admits that on his instructions the Thasildar has received the written objections from the petitioner. This action of respondent No.3 does not constitute due compliance of the provisions of Section 5A of the Act.

The law is well settled that Section 5A of the Act provides valuable opportunity to the owners of the lands, which are proposed to be acquired, to put forth their objections against such proposals. Therefore, denial of such an opportunity by respondent No.3 to the petitioner is illegal.

It is mentioned that so far, the competent authority has not disposed of the objections and no declaration under Section 6 of the Act is made. Therefore, the writ petition is disposed of with the direction to respondent No.3 to hold enquiry under Section 5A of the Act afresh by giving opportunity of personal hearing to the

petitioner before proceeding further.

As a sequel to disposal of the writ petition, WPMP.No.32287 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

Date: 29.11.2007
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